

E-FILED on 7/7/08

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DARREN ANTHONY JOSEPH,

Petitioner,

v.

BEN CURRY,

Respondent.

No. C-04-04228 RMW


ORDER GRANTING PETITIONER'S
REQUEST TO PROCEED IN FORMA
PAUPERIS ON APPEAL**[Re Docket No. 56]**

On December 21, 2006, the court denied petitioner's application for writ of habeas corpus and entered judgment. On January 18, 2007, petitioner applied for a certificate of appealability, which the court denied by order dated January 31, 2007. While the certificate of appealability was pending but after receiving a notice from the court informing him that he was required to pay the \$455.00 filing fee for an appeal, petitioner, then proceeding *pro se*, filed a letter asking to be permitted to proceed *in forma pauperis* on appeal. With his request, he submitted his Inmate Trust Account Statement, which shows an available balance of \$12.85.

The Ninth Circuit subsequently granted petitioner's application before that court for a certificate of appealability as to the issue of whether counsel rendered ineffective assistance in violation of the Sixth Amendment for failing to investigate or to present evidence to impeach the victim. It appointed petitioner counsel for the remainder of petitioner's appeal.

1 The court finds that petitioner's appeal is taken in good faith and that he is entitled to proceed
2 *in forma pauperis*. Fed. R. App. P. 24(a). Accordingly, petitioner's request to proceed *in forma*
3 *pauperis* on appeal is granted.

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6 DATED: 7/7/08



RONALD M. WHYTE
United States District Judge

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United States District Court
For the Northern District of California

/s/ MAG
Chambers of Judge Whyte